

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA; the States of CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, FLORIDA, GEORGIA, HAWAII, ILLINOIS, INDIANA, LOUISIANA, MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA, MONTANA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW MEXICO, NEW YORK, NORTH CAROLINA, OKLAHOMA, RHODE ISLAND, TENNESSEE, TEXAS, VIRGINIA, and WISCONSIN; the DISTRICT OF COLUMBIA, the CITY OF CHICAGO, and the CITY OF NEW YORK *ex rel.*, and OSWALD BILOTTA,

Plaintiffs,

-against-

NOVARTIS PHARMACEUTICALS
CORPORATION,

Defendant.

11 Civ. 0071 (PGG)

**DECLARATION OF BENJAMIN GRUENSTEIN IN SUPPORT OF NOVARTIS
PHARMACEUTICALS CORPORATION'S MOTIONS TO EXCLUDE THE
PROFFERED OPINIONS OF PLAINTIFFS' EXPERTS**

I, Benjamin Gruenstein, declare as follows:

1. I am a member of the law firm Cravath, Swaine & Moore LLP, counsel for Defendant Novartis Pharmaceuticals Corporation ("NPC") in the above-captioned action. This Declaration accompanies the Memoranda of Law in Support of NPC's Motions to Exclude the Proffered Opinions of Plaintiffs' Experts.

Exhibits

1. Attached hereto as Exhibit 1 is a true and correct copy of the Expert Report of Virginia B. Evans, dated August 14, 2017.

2. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the transcript of the deposition of Virginia Evans, dated January 23, 2018.

3. Attached hereto as Exhibit 3 is a true and correct copy of the Expert Report of Daniel McFadden, dated August 14, 2017.

4. Attached hereto as Exhibit 4 is a true and correct copy of the Supplemental Expert Report of Daniel McFadden, dated September 22, 2017.

5. Attached hereto as Exhibit 5 is a true and correct copy of the Rebuttal Expert Report of Daniel McFadden, dated February 7, 2018.

6. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from the transcript of the deposition of Daniel McFadden, dated March 1, 2018.

7. Attached hereto as Exhibit 7 is a true and correct copy of the Expert Report of Graham T. McMahon, dated August 14, 2017.

8. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the transcript of the deposition of Graham McMahon, dated January 29, 2018.

9. Attached hereto as Exhibit 9 is a true and correct copy of the Expert Report of Stanley J. Schneller, dated August 3, 2017.

10. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from the transcript of the deposition of Stanley J. Schneller, dated January 30, 2018.

11. Attached hereto as Exhibit 11 is a true and correct copy of the United States Sentencing Commission, Guidelines Manual, "Sentencing of Organizations", available at <https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2001/manual/CHAP8.pdf>.

12. Attached hereto as Exhibit 12 is a true and correct copy of the 2002 PhRMA Code on Interactions with Health Care Professionals, effective July 1, 2002, available at www.ucsfcmc.com/physician/PhRMACode.pdf.

13. Attached hereto as Exhibit 13 is a true and correct copy of the OIG Compliance Program Guidance for Pharmaceutical Manufacturers, dated May 5, 2003, available at <https://www.gpo.gov/fdsys/pkg/FR-2003-05-05/pdf/03-10949.pdf>.

14. Attached hereto as Exhibit 14 is a true and correct copy of the 2009 PhRMA Code on Interactions with Health Care Professionals, effective January 2009, available at http://phrma-docs.phrma.org/sites/default/files/pdf/phrma_marketing_code_2008.pdf.

15. Attached hereto as Exhibit 15 is a true and correct copy of the Expert Report of Eric M. Gaier, dated December 11, 2017.

16. Attached hereto as Exhibit 16 is a true and correct copy of “Heterogeneous Learning and the Targeting of Marketing Communication for New Products”, Marketing Science: Vol. 28, No. 3 (2009).

I declare under penalty of perjury that the foregoing is true and correct.

Executed: September 28, 2018

New York, New York



Benjamin Gruenstein